



# City of Portland, Oregon Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor Rebecca Esau, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

**Date:** September 27, 2019 **To:** Interested Person

**From:** Sean Williams, Land Use Services

503-823-7612 / Sean.Williams@portlandoregon.gov

# NOTICE OF A TYPE IX DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

The reasons for the decision are included in the version located on the BDS website <a href="http://www.portlandonline.com/bds/index.cfm?c=46429">http://www.portlandonline.com/bds/index.cfm?c=46429</a>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 19-164104 LC

# GENERAL INFORMATION

Applicant/Owner: Daniel Silvey / DBS Group LLC

2115 SE Tenino Street Portland OR 97202

**Representative:** Danelle Isenhart / Emerio Design

6445 SW Fallbrook Pl, Suite 100

Beaverton, OR 97008

danelle@emeriodesign.com/503-880-4979

Owner: DBS Group LLC

2115 se Tenino St Portland OR 97202

**Site Address:** 7909 SE CESAR E CHAVEZ BLVD

**Legal Description:** BLOCK 32 LOT 1-3, BERKELEY

**Tax Account No.:** R070908710 **State ID No.:** 1S1E24DA 12800

Quarter Section: 3834

**Neighborhood:** Eastmoreland, contact Rod Merrick at

president@eastmorelandpdx.org

**Business District:** None

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

Plan District: None Other Designations: None

**Zoning:** Residential 5,000 (R5) **Case Type:** Lot Consolidation (LC)

**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land

Use Board of Appeals (LUBA).

# Proposal:

The applicant proposes to consolidate historic Lots 2 and 3, Block 32, Berkeley into one parcel. The lot consolidation is in preparation for a future property line adjustment (19-164111 PR) with abutting Lot 1 of the same subdivision. The property line adjustment is not part of this review.

# Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.675.300**, **Lot Consolidation Approval Criteria**.

# **ANALYSIS**

**Site and Vicinity:** The site is located on the southwest corner of SE Cesar E Chavez Boulevard and SE Lexington Street. Existing development consists of a single family home and attached garage. The subsequent property line adjustment proposes to rotate a property line to create a buildable lot to the south of the house. The attached garage will be removed to accomplish this.

**Zoning:** The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on June 14, 2019.

- **1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the applicable criteria for review of the proposal.
- **2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

# ZONING CODE APPROVAL CRITERIA

# LOT CONSOLIDATIONS

#### 33.675.010 Purpose

This chapter states the procedures and regulations for removing lot lines within a site to combine into one to three lots. The regulations ensure that the lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by counties to consolidate lots under one tax account. A tax account consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.

## 33.675.050 When These Regulations Apply

A lot consolidation may be used to remove lot lines within a site. The perimeter of consolidated lots must follow existing lot lines. Lot lines cannot be created or moved through this process. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.

# 33.675.100 Review Procedure

**A. Generally.** Lot consolidations are reviewed through Type Ix procedure.

**B.** Sites in PUDs or PDs. If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

**Findings:** The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested lot consolidation review has been reviewed under the Type Ix procedure.

# 33.675.300 Approval Criteria

A lot consolidation will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met:

# A. Lots. Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:

#### 1. Lot dimension standards.

- a. Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot area requirements;
- b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, lots in the lot consolidation site are exempt from maximum lot area requirements;
- c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot width requirements;
- d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum front lot line requirements;
- e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, lots in the lot consolidation site are exempt from minimum lot depth requirements.

**Findings:** The proposed site is in the R5 zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. The proposed consolidated lot meets the lot dimension standards of the R5 zone as shown in the following table (this information is found in Table 610-2 of the Zoning Code):

R5 Zone	Parcel 1
Requirement	(after consolidation)
3,000 square feet	5,000 square feet
8,500 square feet	
36 feet	50 feet
30 feet	50 feet
50 feet	100 feet
	Requirement 3,000 square feet 8,500 square feet 36 feet 30 feet

<sup>\*</sup> Width is measured at the minimum front building setback line

As noted herein, the proposed consolidated lot meets the standards of 1.a through 1.e and this requirement is met.

2. Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;

**Findings:** The maximum density of the consolidated lot is (5,000/5,000) = 1.00 = 1 unit. The site is developed with one single-family dwelling. Therefore the maximum density will not be exceed by consolidating the historic lots that currently make up this site.

3. Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;

**Findings:** Both lots in the lot consolidation site have street frontage, therefore this requirement does not apply.

4. Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;

**Findings:** The existing lots within the lot consolidation site are not through lots and proposed consolidated Lot 1 will not be a through lot. Therefore, this requirement does not apply.

5. Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.

**Findings:** This site contains only one zoning designation, therefore the consolidated lot will not have split zoning. This requirement does not apply.

- B. Conditions of land division approvals. The lot consolidation must meet one of the following:
  - 1. All conditions of previous land division approvals continue to be met or remain in effect; or
  - 2. The conditions of approval no longer apply to the site, or to the development on the site, if the lots are consolidated.

**Findings:** There are no previous land division approvals for this site, therefore these requirements do not apply.

C. Conditions of land use approvals. Conditions of land use approvals continue to apply, and must be met.

**Findings:** There are no previous land use cases for this site, therefore this requirement does not apply.

D. Services. The lot consolidation does not eliminate the availability of services to the lots, and the consolidated lots are not out of conformance with service bureau requirements for water, sanitary sewage disposal, and stormwater management.

**Findings:** The Bureau of Environmental Services (BES) has indicated that the existing house is served by the combination sewer main in SE Cesar E Chavez Boulevard. The proposed Lot consolidation will eliminate the availability of services to the house as the consolidated lot will no longer have frontage on SE Cesar E Chavez Boulevard. However, the subsequent Property Line Adjustment (19-164111 PR) will rotate the common property line with Lot 1 (Block 32, Berkeley) to have frontage on Cesar E Chavez Boulevard, which will bring the lot with the house back into conformance with sewer service requirements. Therefore, a condition of approval requiring approval of Property Line Adjustment case file 19-164111 PR is necessary to ensure conformance with BES standards for sanitary sewer.

# **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development

standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant proposes to consolidate historic Lots 2 and 3, Block 32, Berkeley into one parcel. As discussed above, BES noted an issue regarding Services approval criteria related to sanitary sewer service. The requested lot consolidation has been reviewed and shown to be able to meet all the requirements for lot consolidations as laid out in Section 33.675.300, subject to a condition of approval.

# ADMINISTRATIVE DECISION

**Approval** of a Lot Consolidation to create one parcel of historic Lots 2 and 3, Block 32, Berkeley into one parcel, as illustrated by Exhibit C.1 (signed and dated September 25, 2019), subject to the following condition:

**A.** Property Line Adjustment 19-164111 PR must be approved and recorded to provide frontage on SE Cesar E Chavez Boulevard for the existing house to remain in conformance with BES standards for sanitary sewer service, prior to issuance of any new development permits on the site.

Staff Planner: Sean Williams

Decision rendered by:

on September 25, 2019

By authority of the Director of the Bureau of Development Services

Decision mailed: September 27, 2019

About this Decision. This land use decision is not a permit for development. THE SIGNED FINAL PLAT MUST BE RECORDED WITH MULTNOMAH COUNTY DEED RECORDS WITHIN 90 DAYS OF THE DATE OF THIS DECISION (December 26, 2019), OR THIS DECISION WILL BECOME NULL AND VOID. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on May 13, 2019, and was determined to be complete on June 7, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 13, 2019.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: October 5, 2019.** 

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

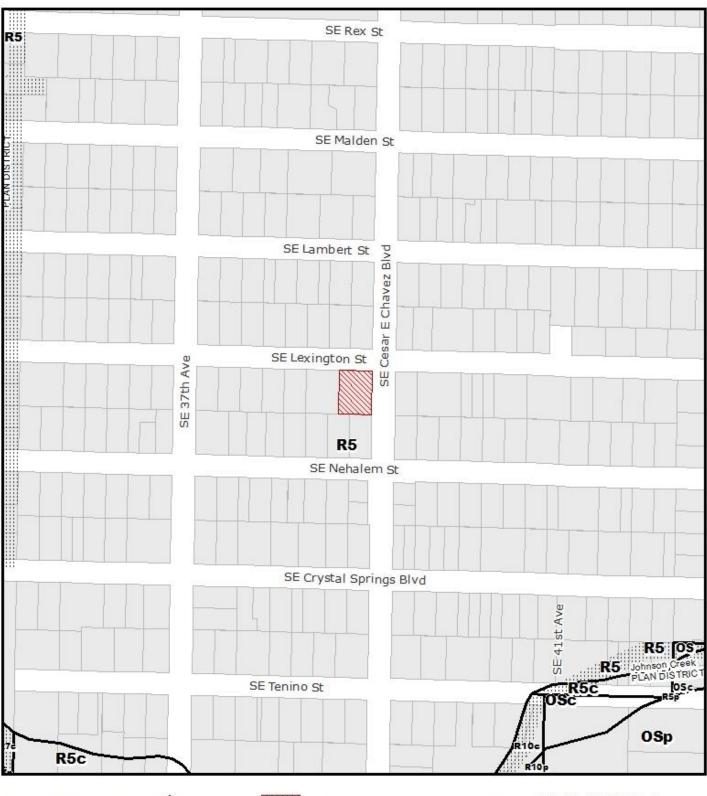
**Recording the Final Plat.** The signed plat must be recorded by the applicant with the County Deed Records within 90 days following approval by the Bureau of Development Services or the approval will be null and void.

## **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Legal Description
  - 3. Title Report
  - 4. Operating Agreement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Approved Plat (attached)
  - 2. Supplemental Survey
  - 3. Historic Plat of Berkeley
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Life Safety Plans Examiner
  - 5. Fire Bureau; Site Development Review Section of BDS
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



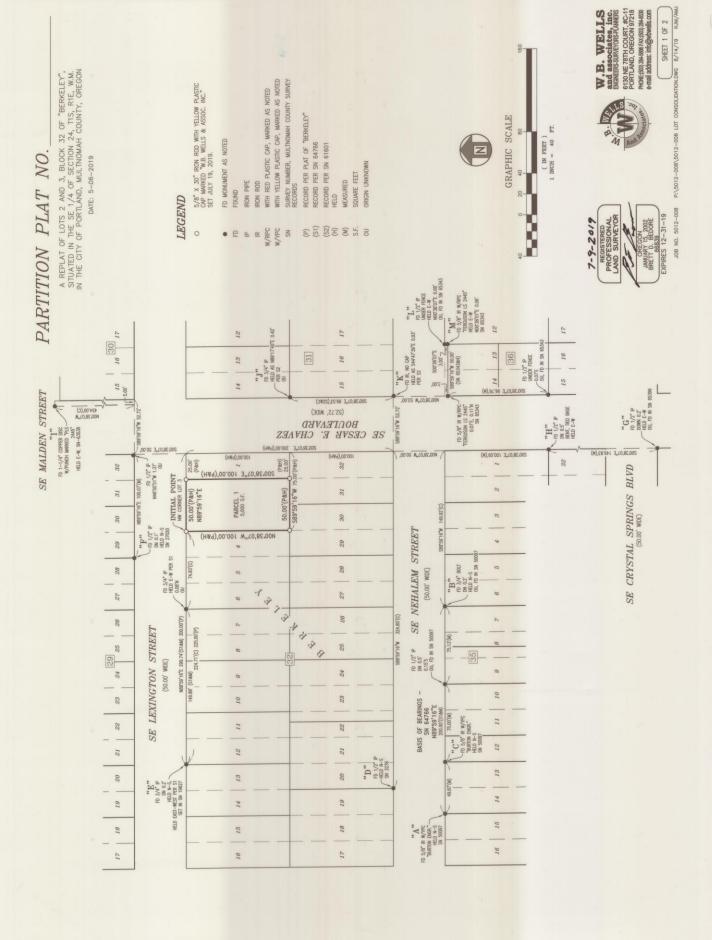




File No. LU 19-164104 LC

1/4 Section 3834

Scale 1 inch = 200 feet
State ID 1S1E24DA 12800
Exhibit B May 17, 2019



# SURVEYOR'S CERTIFICATE

I, BREIT D. BEDORE, HERBIY CERIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MANUALINEY THE LAND REPRESENTED ON THIS LOT CONSOLIDATION PLAT, SAID LAND BEING DESCRIBED AS FOLLOWS.

DECLARATION

LOYS 2, AND 3, BLOCK 32, OF THE DULY RECORDED PLAT OF "BERKELEY", MULTHOUMH COUNTY PLAT RECORDS, LLOCKED IN THE SE 1/4 OF SECTION 24, TOWNSHP 1 SOUTH, RANGE 1 ESS, WILLARETTE MERIUM, IN THE PORTLAND, MULTHOUGH COUNTY, CREECH, SUD LIND BEING MORE PARTICULARLY DESCRIBED AS POLLOWS.

COMMENCING AT A FOUND 3/4 INCH IRON PPE MARGING THE NORTHWEST CORNER OF 107 12 OF SUD BLOCK AS, ASD BENG A FOUND ON THE SOUTHERY REAL-GRAW ING OF SELD LEDUNGON STREET (B) FEET WIDE; THENCE NORTH RESS'S TO SUS, AND SUD SOUTHERY DESCRIPTION OF SUBJECT OF THE SUBJECT OF SUBJECT

CONTAINING 5,000 SQUARE FEET.

I HEREBY CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL PLAT



# NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT LOTS 2 AND 3, BLOCK 32, OF THE DULY RECORDED PLAT OF "BERKELE", MULTINOMAH COUNTY PLAT RECORDS, AS ONE PARCEL.

A RANDOM TRAVERSE WAS RUN LOCATING THE MONUMENTS SHOWN ON NOVEMBER 26, 2018.

BASIS OF BEARINGS: NORTH 89'59'16" EAST PER SN 64766, MONUMENTS "A" TO "B".

THE SOUTH DIRE OF SUD BLOCK 33 AND THE MORTHERDY REGAL-OF-WAY LINE OF SE RELYLED STREET (SO FEET WHICH WINDS, WAS ESTRÉEDISED IN FLOUNDER FECTORS REGALFOR-MAN WITH THOM MONUMENTS "A", "TO AND "C", WHICH AGREES WITH MONUMENT "A", "SO SHORM.

THE MORTH LIBE OF SAUD BLOCK, 23 AND SOUTHERPY RIGHT-CF-WIN LIBE OF SE LEDWICTON STREET (55) RETI THE SINE ISSELESTED PROMILED WITH AND SERVECT PLAT DISTANCE TROM THE SOUTH LIBE OF SAUD BLOCK 32, WHICH JAREES THIN THE MOUNTERST "F, AS STROMY.

THE SOUTH LINE OF SAID LOTS 2 AND 3 WAS ESTABLISHED PARALLEL WITH AND SUBJECT PLAT DISTANCE FROM THE NORTH LINE OF SAID BLOCK 32.

THE EAST LINE OF SAID BLOCK 22 AND WESTERLY RIGHT-OF-WAY LINE OF SE CESAR CHAPE BOLIENKED (52.72) FEET WIDE) WAS ESTABLISHED BY HOLDING MONMENTS "G" AND "H" TO THE SOUTH, AND HOLDING RECORD (SN SASSA) OFFER JOE 5.00 FEET FROM MONMENT "I" TO THE NORTH, WHICH AGREES WITH RECORD (\$2) FALLINGS FROM MONMENTS "G" AND "M", AG SHOWN.

THE EAST LINE OF SAID LOT 2 WAS ESTABLISHED PARALLEL WITH AND SUBJECT PLAT DISTANCE FROM THE EAST LINE OF SAID BLOCK 32.

THE WEST LINE OF SAID LOT 3 WAS ESTABLISHED PARALLEL WITH AND SUBJECT PLAT DISTANCE FROM THE EAST LINE OF SAID LOT 2.

MONUMENT FALLINGS ARE BASED ON CARDINAL DIRECTIONS UNLESS NOTED OTHERWISE.

# PARTITION PLAT NO.

A REPLAT OF LOTS 2 AND 3, BLOCK 32 OF "BERKELEY", SITUATED IN THE SE 1/4 OF SECTION 24, TIS, RIE, W.M. IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

# CITY OF PORTLAND APPROVALS

BY: W. W. CITY OF PORTLAND, PLANNING DIRECTOR'S DELEGATE

APPROVED THIS 20 THY OF SENTEMORY, 2019

D.B.S. GROUP, I.LC, AN OREGON LIMITED LIABILITY COMPANY

DANIEL B. SILVEY, MANAGER

DAVID H. SILVEY, MANAGER Chris

CITY ENGINEER'S DELEGATE

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095 HAVE BEEN PAID AS OF , 20 DIRECTOR, DIVISION OF ASSESSMENT & TAXATION

DEPUTY

DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED

COUNTY RECORDING OFFICE PLAT NO.

DEPUTY DOCUMENT NO.

6130 NE 78TH COURT, #C-11 PORTLAND, OREGON 97218

APPROVED THIS 25th DAY OF SECTION 2019 MULTNOMAH COUNTY APPROVALS M. AS PARTITION APPROVED THIS DAY OF COUNTY SURVEYOR MULTNOMAH COUNTY, OREGON CASE FILE NO. LU 19-164104 LC MULTNOMAH COUNTY, OREGON. )88 COUNTY OF MULTNOMAH) DATE: 5-06-2019 STATE OF OREGON CITY OF I NAMIN ALL PERSONS BY THESE PRESSITS THAT D.B.S. GROUP, LLC, AM OREGON LUMID LUBITO CANANY, E.S. FO WARRO TO THE PROPERTY REPRESSIVED ON THE ANNEXED MAP AND MORE PARTICULARY. DESCRIBED IN THE ACCOMPANING. SURPHING SCRIFFLOXIE, BODE SHEESEN WARE, ESTABLES AND DECLARE THE ANNEXED PARTITION PLAT, TO BE A TINKE, AND CORRECT MAY AND PLAT THEREOF. THE EDICLARMY THE CAUSED THE PRESTENCY PRESSIVENCY AND AND THE PROPERTY PARTITIONED, AS SHOWN AND NOTID, IN ACCORDANCE WITH THE PROMISSION OF CHAFTER SE OF THE OREGON PERSON STANDARY.

ACKNOWLEDGMENT

STATE OF OREGON

COUNTY OF MULHOMAN

THIS INSTRUMENT WAS ACKNOWEDDED BEFORE WE ON <u>SECHEMBER</u> 10th POWIEL B. SILVEY AND DAND H. SILVEY, MANUERS OF D.B.S. GROUP, LLC, AN ORECON LIMITED LIBERTY COMPANY, ON BEHALF OF SUID LLC.

Kristina Palmer

COMMISSION No. 961644

MY COMMISSION EXPIRES April 27th, 202

CRISTINA ELIZABETH PALMER
OTRAT PUBLIC-OREGON
COMMISSION NO. 961644
MY COMMISSION BOTHER APRIL 27, 2021

NOTES

THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE PLE NUMBER LU 15-1541-94 LC.

W.B. WELLS and associates, inc. ENGINEERS. SURVEYORS-PLANNERS PHONE:(503) 284-5896 FAX:(503) 284-8530 e-mail address: info@wbwells.com SHEET 2 OF 2 JOB NO. 5012-008 P:\5012-008\5012-008 LOT CONSOLIDATION.DWG